



DEPARTMENT OF COMMERCE

International Trade Administration

A-570-831

Fresh Garlic from the People's Republic of China: Initiation of Changed Circumstances Review of Jining Yongjia Trade Co., Ltd. and Jinxiang County Shanfu Frozen Co., Ltd.

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has received information sufficient to warrant initiation of a changed circumstances review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC). Based upon a request filed by Jining Yongjia Trade Co., Ltd. (Yongjia), an exporter of fresh garlic to the United States, the Department is initiating a changed circumstances review to determine whether Yongjia's supplier, Jinxiang County Shanfu Frozen Co., Ltd. (Shanfu II), is the successor-in-interest of the producer/supplier of Yongjia with the same name, Shanfu (Shanfu I), examined in Yongjia's new shipper review of this order.¹

DATES: *Effective Date:* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Hilary E. Sadler, Esq., at (202) 482-4340 or Mark Hoadley at (202) 482-3148, AD/CVD Operations, Office VII, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

¹ See *Antidumping Duty Order: Fresh Garlic From the People's Republic of China*, 59 FR 59209 (November 16, 1994) (*Order*). See also *Fresh Garlic from the People's Republic of China: Final Results and Rescission, In Part, of Twelfth New Shipper Reviews*, 73 FR 56550 (September 29, 2008).

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1994, the Department published notice of the *Order* in the *Federal Register*.² On October 8, 2014, Yongjia requested that the Department conduct a changed circumstances review pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216 and 19 CFR 351.221(c)(3), to determine that its supplier, Shanfu II, is the successor-in-interest to the supplier of the same name which the Department examined in Yongjia's new shipper review for purposes of this antidumping duty order. In its request, Yongjia stated that changes in ownership in Shanfu I had taken place, and provided business licenses before and after the change in ownership, a tax payment notice, a marriage license, and information on the company's ownership and customers before and after the ownership change. On November 5, 2014, the petitioners³ submitted comments opposing this initiation.

Scope of the Order

The products covered by the order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay. The scope of the order does not include the following: (a) garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed. The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings: 0703.20.0000, 0703.20.0010,

² *See id.*

³ The petitioners are the Fresh Garlic Producers Association and its individual members: Christopher Ranch L.L.C., The Garlic Company, Valley Garlic, and Vessey and Company, Inc.

0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700, of the Harmonized Tariff Schedule of the United States (HTSUS).

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive. In order to be excluded from the order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to U.S. Customs and Border Protection to that effect.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Act, the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. In accordance with 19 CFR 351.216(d), the Department has determined that the information submitted by Yongjia constitutes sufficient evidence to conduct a changed circumstances review of the *Order*.

In a changed circumstances review involving a successor-in-interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.⁴ While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor if the resulting

⁴ See, e.g., *Certain Activated Carbon From the People's Republic of China: Notice of Initiation of Changed Circumstances Review*, 74 FR 19934, 19935 (April 30, 2009).

operations are essentially the same as those of the predecessor company.⁵ Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor.⁶

Based on the information provided in its submission, Yongjia has provided sufficient evidence to warrant a review to determine if Shanfu II is the successor-in-interest to Shanfu I in the new shipper review. Therefore, pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d), we are initiating a changed circumstances review.

We are also initiating a changed circumstances review of Yongjia as well as on Shanfu II. Yongjia requested a changed circumstances review of Shanfu II so that it may continue to receive the chain-rate determined in its new shipper review. Normally, a company requests a changed circumstances review for itself. In a successor-in-interest changed circumstances review, we are determining whether a prior calculated rate should apply to an entity under review. Here, the rate is a chain-rate that applied to both Yongjia and Shanfu. To determine whether this rate should continue to apply to both Yongjia and Shanfu, we are initiating a review of both companies. Moreover, the statute authorizes us to initiate a changed circumstances review when we determine changed circumstances are sufficient to warrant a review.⁷ Here, changed circumstances related to both Shanfu and Yongjia exist, warranting a review of both companies. First, Yongjia stated that a change in ownership of Shanfu I raises the issue of affiliation between Yongjia and Shanfu II. Second, Yongjia requests that we conduct a collapsing analysis, to determine whether the Department should collapse Yongjia and Shanfu II based on the change in

⁵ See, e.g., *Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Forged Stainless Steel Flanges from India*, 71 FR 327 (January 4, 2006).

⁶ See, e.g., *Fresh and Chilled Atlantic Salmon From Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

⁷ See section 751(b)(1) of the Act. See also 19 CFR 351.216.

ownership, and treat the companies as a single entity for purposes of calculating antidumping duty rates. For these reasons, we are initiating a changed circumstances review of both parties to determine not only whether Shanfu II is the successor-in-interest to Shanfu I but also to determine whether the chain-rate is still applicable, or whether the changed circumstances warrant the application of the PRC-wide rate to Shanfu's and Yongjia's shipments instead.

Additionally, the Department finds it is necessary to issue a questionnaire requesting additional information for this review, as provided for by 19 CFR 351.221(b)(2). For this reason, the Department is not conducting this review on an expedited basis by publishing preliminary results in conjunction with this notice of initiation. The Department will publish in the *Federal Register* a notice of the preliminary results of the changed circumstances review in accordance with 19 CFR 351.221(b)(4) and 19 CFR 351.221(c)(3)(i). That notice will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed.

Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of review. In accordance with 19 CFR 351.216(e), the Department intends to issue the final results of its antidumping duty changed circumstances review not later than 270 days after the date on which the review is initiated.

During the course of this changed circumstances review, we will not change the cash deposit requirements for the merchandise subject to review. The cash deposit will only be altered, if warranted, pursuant to the final results of this review.

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216(b) and 351.221(b)(1).

Dated: December 16, 2014.

Christian Marsh,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations.

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